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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,143	08/08/2003	Michael Lynn Hinds	16538-US	3412

7590 08/31/2004

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EXAMINER

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/637,143

Applicant(s)

HINDS, MICHAEL LYNN

Examiner

Árpád Fábián Kovács

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6 is/are rejected.
- 7) ☒ Claim(s) 4-5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>8/27/2004</u> . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Quick (WO 85/00268) **OR** Ruback et al (4008557) **OR** Makeham et al (3596447).

Quick or Ruback or Makeham disclose:

Cutting & shredding & creating a stream of air means (Makeham: col. 2, ln. 13, 29, col. 1, ln 53-62; ref. 14, 18, 20, 38, 40, 42; Quick: discloses the shredding/thrashing pg. 7, ln 21-22, cutters 84, 86, 122, 124, discharger/feeder 100, 106; Ruback: shredding/thrashing col. 3, ln 28, ref 102, 104, 74, discharging/delivering outside col. 4, ln 30-35).

The finger of ref 25 of Makeham is also capable of acting as a blade & shredding; it is noted however that Makeham does not show that it is projecting outwardly from the periphery of the disk, but claim 6 does not require this structural feature, and between elements 30 air is generated as claimed; both Quick & Ruback disclose a mechanism for both cutting & shredding; wherein the apertures enclosed by ref 86 (Ruback) and ref 106 (Quick) provide for generating air for aiding sideways discharge as claimed.

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As applied to claim(s) 6, in view of the structure disclosed/taught by Quick (WO 85/00268) **OR** Ruback et al (4008557) **OR** Makeham et al (3596447), the method of operating/using the device is inherent since it is the normal and logical manner in which the device is used.

3. Claims 1-3 rejected under 35 U.S.C. 102(b) as being anticipated by Quick (WO 85/00268) **OR** Ruback et al (4008557) .

Quick or Ruback disclose:

In re claim 1:

At least two topper/shredder disks & blades on a center support axis (Quick: ref 84, 86, 122, 124; Ruback: 102, 104) [also, in re cl. 2];

Air assist vane (Ruback: ref 116, 118, 119, col. 3, ln 47; Quick: ref, 136, 138, 139, pg. 8, ln 5-8[also, in re cl. 3].

Quick & Ruback disclose a mechanism for both cutting & shredding; wherein the apertures enclosed by ref 86 (Ruback) and ref 106 (Quick) provide for generating air for aiding sideways discharge as claimed.

Allowable Subject Matter

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4. Claims 4-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 8/10/2004 have been fully considered but they are not persuasive.

As the Examiner pointed during the interview on 8/27/2004, claim 6, does not set forth any structural elements which would distinguish over the prior art.

Although the Applicant argues that the cited references do not disclose structure for shredding, however as the Applicant explained, shredding can be done by the mere fact of having more than one cutting element. The Examiner further notes that claim 6 does not even require a plurality of cutting elements, or any other structure for performing the method claimed; on the other hand, shredding can be accomplished by, for example, elements ref 86 (Ruback, '557). The air is created, entrained by simply, for example, through the hole created by element ref 86, fig 2 of Ruback. Similarly in re Quick, as noted in the Interview Summary.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 703-308-5897. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308 3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

ÁFK